

### **REMARKS**

Reconsideration of the application is respectfully requested.

#### **I. Status of the Claims**

Claims 1 - 3, 8 and 9 are currently pending.

Claims 4 - 7 having been previously canceled.

Claim 9 was found by the Examiner as being drawn to an unelected invention as defined by a previous restriction requirement, and was previously withdrawn.

Claims 1, 3, and 8 are amended. No new matter is added.

#### **II. Specification**

The objection to the specification as failing to provide proper antecedent basis for the claimed subject matter is noted. The claims are amended to avoid the objection.

#### **III. Claim Objections**

Claims 1 and 8 are amended to avoid the objections to informalities.

#### **IV. Rejections under 35 U.S.C. § 112**

Claim 8 is rejected under the first paragraph of 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner asserts that the specification fails to teach that the reporting unit reports a trouble condition for the blood purifier and the blood pump under certain conditions. Applicant

traverses this assertion. However, to help expedite the prosecution of the application through to allowance, Applicant has amended Claim 8 to avoid the rejection.

Amended claim 8 now recites that said reporting unit is further configured to report the trouble condition for said blood purifier when said difference between said second measurement value and said second theoretical value is at a first value which is different than the second predetermined acceptable ratio difference, and to report the trouble condition for said blood pump when said difference between said second measurement value and second theoretical value is at a second value which is different than the second predetermined acceptable ratio difference.

**V. Rejections under 35 U.S.C. § 103**

The rejection of Claims 1 - 3 and 8 under 35 U.S.C §103(a) as being unpatentable over Brugger et al. (U.S. Patent No. 6,554,789) is traversed.

Brugger discloses (see col. 24, lines 26 - 34), a device that derives a ratio based upon the difference detected by sensors between the pre-treatment and post-treatment hematocrits, and compares this single ratio with the filtration fraction value to issue a command to the flow restrictor to bring the difference between the readings of the two hematocrits to zero.

The application discloses a structure of calculating which derives a first and a second specific ratio value (not one ratio) where one ratio is divided by the other ratio to

obtain a value which is used to evaluate the operation of our Blood Purification Device.

More specifically, claim 1 now positively recites, in combination, the structure of:

a calculating unit to first obtain a measured ratio value and a theoretical ratio value and then compare said measured ratio value to said theoretic ratio value to obtain an evaluation value which can be used to evaluate operation of the blood purification device; wherein the first measured hematocrit value Hta is divided by the second hematocrit value Htv to obtain the measured ratio value  $Hta/Htv$ ; and a preset blood flow rate Qb is divided by a preset water removal rate Quf to obtain the theoretical ratio value  $Qb/Quf$  (underscoring added for emphases).

Brugger et al. neither discloses nor suggests obtaining two separate ratios (a measured ratio and a theoretical ratio), and then comparing the two separate ratios to obtain an evaluation value.

Claim 1 further recites the structure of an evaluation unit which compares the evaluation value with a predetermined value; and the structure of a reporting unit which reports a trouble condition for at least one of said blood pump and said blood purifier under certain conditions.

Clearly, Brugger et al. neither discloses nor suggests doing what we disclose doing in our application and now positively recite in our amended claim 1.

Claims 2, 3, and 8 depend from amended Claim 1 and, for the reasons noted above, also clearly avoid the Brugger et al. reference.

Accordingly, Applicants respectfully submit that Applicants' invention as claimed in amended independent claim 1 is neither anticipated nor made obvious by Brugger, and stands in condition for allowance. Claims 2, 3 and 8 depend from allowable independent claim 1 and, therefore, for the reasons note above, are also considered to be in condition for allowance.


**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

The Examiner is respectfully requested to contact the undersigned at the telephone number indicated below if the Examiner believes any issue can be resolved through either a Supplemental Response or an Examiner's Amendment.

Dated: February 4, 2008

Respectfully submitted,

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